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IN THE

Supreme Court of the United States

OCTOBER TERM, 1962.

No. 984

GUILLERMO GONZALEZ, ET AL.,
Appellants,

vs.

CITY OF CHICAGO, A MUNICIPAL CORPORATION,
Appellee.

ON APPEAL FROM THE SUPREME COURT OF ILLINOIS.

MOTION OF THE APPELLEE, CITY OF CHICAGO, A MUNICIPAL CORPORATION, TO DISMISS THE APPEAL OF GUILLERMO GONZALEZ, ET AL., APPELLANTS, FOR WANT OF A SUBSTANTIAL FEDERAL QUESTION, AND BRIEF IN SUPPORT OF SAID MOTION.

JOHN C. MELANIPHY,
Corporation Counsel of the City of Chicago,
511 City Hall,
Chicago 2, Illinois,

THOMAS A. FORAN,
Special Assistant Corporation Counsel,

MILTON P. WEBSTER, JR.,
Assistant Corporation Counsel,
Attorneys for Appellee.

ALBERT E. JENNER, JR.,
THOMAS A. FORAN,
KEITH F. BODE,
Of Counsel.

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To the Honorable, the Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

Appellee, City of Chicago, a municipal corporation, moves to dismiss for want of a substantial federal question the appeal from the judgments of the Supreme Court of Illinois entered on February 26, 1963, which affirmed judgments of

condemnation in favor of appellee, judgments which admittedly awarded just compensation to appellants for the land taken.

Appellee submits this brief in support of its position that the Supreme Court of the United States is without jurisdiction of this appeal and that no substantial federal questions are presented by the Jurisdictional Statement of appellants.

The opinion of the Supreme Court of Illinois from which the appeal is taken has been reported as *City of Chicago* v. *Zwick*, 27 Ill. 2d 128, 188 N. E. 2d 489 (1963).

QUESTIONS PRESENTED.

I. Did Illinois afford appellants a full and fair hearing in the Circuit Court of Cook County which satisfied the constitutional requirements of due process of law and equal protection of the laws?

II. Does the legislative definition of a "slum and blighted area" contained in the Illinois Blighted Areas Redevelopment Act satisfy constitutional requirements of definiteness?

III. Do the appellants have standing to obtain review of alleged non-compliance by local Illinois agencies with provisions of the Federal Housing Act?

STATEMENT OF THE CASE.

The appellants' Statement of the Case under the headings "Proceedings Below," "Related Federal Case" and "Facts Alleged in the Traverse" sets forth the chronological order of the various steps involved in this proceeding. Appellants make certain characterizations of the evidence and pleadings which we cannot accept and which will be commented upon in the course of our argument.

Two important omissions occur in appellants' Statement of the Case which should be noted:

First: A legislative type hearing was in fact held before the Planning and Housing Committee of the Chicago City Council on April 13-15, 1961 at which objectors were permitted to and did appear, participate and make statements. It was not until May 22, 1961, which was subsequent to the legislative declaration of the area as slum and blighted, that the Chicago City Council adopted the ordinances approving the redevelopment of the area as a University site.

Second: Testimony taken at the trial in the Circuit Court was confined to the question of whether the Roosevelt-Blue Island area (as distinguished from a combined area consisting of Roosevelt-Blue Island, Congress-Racine and Harrison-Halsted) was a slum and blighted area because (a) it was and still is conceded that the Harrison-Halsted area was a slum and blighted area at the time of its designation as such (A. 122) and (b) none of the parcels of land involved in this cause was located in the Congress-Racine tract.

Under the heading "Condition of the Roosevelt-Blue Island Tract" appellants, though asserting their recognition of the fact that this Court cannot and will not reweigh and resolve conflicts in the testimony and other evidence before the trial court, belie their assertion by proceeding to give a highly selective and biased statement of the evidence presented before the trial court. Suffice it to say that the witnesses for the appellee had examined 330 of the 332 parcels of land in the Roosevelt-Blue Island area and testified that they found one or more or some combination of three (dilapidation, obsolescence and deleterious land use) of the ten statutory factors of slum and blight named in the Illinois Statute in over 90% of the structures involved. The abstract of the transcript of the proceedings

and the many original exhibits, including the photographs, disclose the wealth of evidence presented in the trial court on the issue of slum and blight.

I.

The Appellants Were Afforded a Full and Fair Judicial Hearing Which Satisfied the Requirements of Both Due Process of Law and Equal Protection of the Laws.

Appellants' first argument is a contention that Illinois procedure in slum clearance cases denies property owners due process of law. This argument is admittedly identical with that made in the petition for certiorari in the companion Federal case (No. 861). Consequently, the appellee will burden the Court with but a brief restatement of the reasons why the argument is invalid.

First of all, appellants complain that they should have been afforded a trial-type administrative hearing before the Chicago Land Clearance Commission at the time that agency made its preliminary legislative declaration of the area as slum and blighted and its decision to engage in this slum clearance project. Appellants make this complaint although they admit they were afforded a full judicial hearing in the Circuit Court of Cook County on the issue of the "slum and blighted" designation and they admit that they were awarded just compensation for their properties.

The Illinois Supreme Court, as did the United States District Court and Court of Appeals, properly held that due process was afforded appellants in the judicial proceedings in the Circuit Court of Cook County in which they were heard fully on all pertinent issues. The initial decision by the Chicago Land Clearance Commission to undertake slum clearance in a particular area is a legislative

determination as to which no hearing whatever is required. *Bragg* v. *Weaver*, 251 U. S. 57 (1919); *Rindge Co.* v. *County of Los Angeles*, 262 U. S. 700, 709 (1923); *Combs* v. *Illinois State Toll Highway Commission*, 128 F. Supp. 305 (N. D. Ill. 1955), aff'd *per curiam* 349 U. S. 942; *Robinette* v. *Chicago Land Clearance Commission*, 115 F. Supp. 669, 672 (N. D. Ill. 1951), leave to file petition for mandamus denied 342 U. S. 940 (1952).

In effect, appellants argue that an exception to this general rule should be made in slum clearance cases. They argue that the economic effect upon property of a "slum and blighted" designation is so immediately disastrous and the procedural rules applied by Illinois courts in awarding compensation to the owners of that property are so unfair that those owners cannot obtain just compensation for their property when taken.

The record in this case demonstrates the inaccuracy of appellants' speculative contentions and refutes the assertion that the United States Constitution compels a special rule as to hearing rights in slum clearance situations.

In the trial court appellants were afforded the opportunity to challenge the "slum and blighted" designation of the area in question. Appellants were permitted to introduce evidence concerning the physical, economic and social condition of the area. As a matter of fact, the trial court imposed upon appellee as the condemning authority the burden of proving that the area was "slum and blighted." The trial court found that the condemning body had sustained this burden and that the area was in fact "slum and blighted." On appeal, after a detailed review of the evidence, the Illinois Supreme Court affirmed the trial court. Consequently, appellants have had a full hearing on this issue. They were in no way prejudiced by reason of the fact that, under Illinois law, the trial type

hearing which adjudicates the issue of "slum and blight" takes place in the condemnation proceeding rather than at or prior to the preliminary legislative declaration.

Appellants speak generally of injury but state no facts showing that they have been injured. In any event no issue of alleged injury respecting just compensation is presented for it is conceded that appellants were awarded just compensation for their property.

At the present time over 98 per cent of the Harrison-Halsted and Roosevelt-Blue Island areas have been acquired by the condemning body. No appeals are pending in which any claim of inadequacy of compensation is made, and no appeals other than that at bar are pending concerning the "slum and blighted" designation. These facts dispose of appellants' rhetorical slurs about the alleged inadequacy of "just compensation" under Illinois law (Jurisdictional Statement 16, 18) and destroy their argument that special circumstances require different hearing procedures in slum clearance cases.

We have searched in vain through appellants' briefs in this case and in No. 861 for an explanation of the grounds on which appellants expect this Court to treat as substantial their due process arguments which are based upon a theory of inevitable and substantial economic hardship and inadequate compensation in the face of the fact that neither appellants nor any other landowners in the area have taken appeals to complain of the adequacy of the compensation awarded.

Appellants also complain of an alleged failure of the local agencies to engage in a bona fide fact finding procedure concerning the "slum and blighted" status of the area. This argument fails for the same reason as the previous one—because it proceeds on the false premise that the adjudication of the "slum and blighted" character of an

area is made by the Land Clearance Commission. Under Illinois law this determination takes place in the condemnation proceedings. The Chicago Land Clearance Commission makes no finding or determination which affects landowners' legal rights. The legislative procedure used by the Commission in its preliminary designation of an area for slum clearance and subsequent redevelopment is irrelevant.

In any event, the area in question has been judicially determined to be a slum and blighted area. The clearance of the area will accomplish the public purpose—eradication of slum and blight—contemplated by the urban renewal statutes. On this record, appellants' contentions amount at most to an offer to prove that the local slum clearance authorities, though effectuating this public purpose, were also actuated by a second public purpose, viz., a desire to provide a site for a university campus. The Illinois Supreme Court properly held that where the accomplishment of the public purpose of slum clearance appears, a property owner has no right to inquire into additional motives of the condemning body. *Soon Hing* v. *Crowley*, 113 U. S. 703, 710-711 (1885); *Progress Development Corp.* v. *Deerfield Park District*, 22 Ill. 2d 132, 174 N. E. 2d 850 (1961); 26 Ill. 2d 296, 186 N. E. 2d 360 (1962), cert. denied 31 Law Week 3339 (April 15, 1963); *Chicago Land Clearance Commission* v. *White*, 411 Ill. 310, 104 N. E. 2d 236 (1952), cert. den. 344 U. S. 824.

Appellants' contentions that local officials were primarily motivated by a desire to provide a site for a unversity campus and but secondarily by a desire to clear slums amounts to an assertion that an otherwise valid slum clearance project may somehow be converted into something else depending upon the nature of the proposed redevelopment of the slum lands when cleared. This contention has been rejected in a host of decisions. *Berman*

v. *Parker*, 348 U. S. 26 (1953); *Grisanti* v. *City of Cleveland*, 371 U. S. 68 (1962); *Cannata* v. *City of New York*, 371 U. S. 4 (1962). See the more than eighty cases collected in 44 ALR 2d 1414 and the ALR Supplemental Service. Appellants' denial of the relevance of these cases (Reply Brief of Petitioners in No. 861, p. 12) is astounding in the face of their repetition of their "redevelopment" argument.

However, appellants' contentions on this issue are significant because they reveal not only the true nature of their complaints but the patent inconsistency of their position. Appellants do not object to slum clearance and urban renewal activity in these areas. They boast that they have previously encouraged that activity. Despite assertions to the contrary (Reply Brief of Petitioners in No. 861, p. 12), their real complaint is that they prefer redevelopment of the cleared area for residential and commercial rather than university use. This clearly appears from their traverse (to which they attached as part thereof their complaint in the federal court case No. 861) in which they pray that appellee be enjoined from proceeding further other than in accord with the original redevelopment plan, viz., residential and commercial use.

Despite appellants' denials (Reply Brief of Petitioners, No. 861, p. 11), appellants' due process arguments are virtually, if not completely, identical to those made by the appellants in *Grisanti* v. *City of Cleveland*, 371 U. S. 68 (1962) in which this court dismissed the appeal for want of a substantial federal question. An examination of the Jurisdictional Statement in that case (No. 535, pp. 5, 36-37) (to which appellants refer) reveals that appellants there, like the appellants here, complained that the hearing held by the local urban renewal authorities prior to condemnation denied due process because it was legislative in nature and because it did not afford to appellants an opportunity

to adduce evidence or subpoena or cross-examine witnesses. Appellants in No. 535 also complained, as do appellants here, that the urban renewal authorities were motivated by a desire to redevelop the area for certain purposes as well as by a desire to clear slums (Jurisdictional Statement, No. 535, p. 8).

Appellants Were Afforded Equal Protection of the Laws, Just As They Were Afforded Due Process.

Appellants argue, Jurisdictional Statement pp. 20-23, that they were denied equal protection of the laws:

(a) Because Illinois Urban Renewal Statutes *require* a legislative hearing to be held by the local land conservation agency prior to the condemnation of any land in a conservation area, but merely *permit* but do not *require* a legislative hearing by the land clearance agency prior to the declaration of an area as slum and blighted; and

(b) Because in this case the Land Clearance Commission did not hold a legislative hearing before it declared the area in question to be slum and blighted.

The basic fallacy in appellants' argument is that they ignore the critical stage, viz., that at which land is sought to be taken.

There can be no denial of equal protection of the laws unless the alleged discrimination infringes appellants' private legal rights. Those rights are in no way affected until the condemnation stage, at which time they and all other owners of property located either in a slum and blighted or in a conservation area are afforded an identical, full judicial hearing on the legality of the urban renewal project, that is, the right of the state to take their property for public use. In this judicial hearing the issue of whether the area in question is slum and blighted or (in

the case of a conservation area) is incipiently so, and the issue of just compensation for the land to be taken is fully heard and adjudicated. Since appellants were afforded that judicial hearing, the difference, if any, in the availability of a preliminary legislative hearing as between clearance and conservation situations is irrelevant. Appellants' equal protection argument therefore suffers from the same fatal flaw as does their due process contention.

Apart from the insubstantiality of appellants' claim as a matter of substance the fact is that prior to the commencement of the condemnation proceedings they were actually afforded a legislative hearing before the Planning & Housing Committee of the Chicago City Council (Jurisdictional Statement p. 21 footnote). All interested persons were permitted to appear and be heard concerning the project. Many persons including some of the plaintiffs in No. 861 availed themselves of this opportunity. Since a preliminary legislative hearing was actually held appellants' objection that Illinois statutes do not *require* a hearing is academic.

Appellants concede in a footnote that this hearing took place but they appear to argue that it should be ignored because it was not held by the Chicago Land Clearance Commission and because it was held after the Commission had issued its preliminary declaration that the area was slum and blighted.

But, under Illinois Law (Ill. Rev. Stat. 1961, Ch. 67½ Sec. 75), that declaration was not effective and the Chicago Land Clearance Commission was without power to commence condemnation proceedings until the slum clearance project was approved by the Chicago City Council. Appellants had an opportunity to present their arguments before a committee of the City Council before that body approved the project. On these facts, appellants' equal protection argument is insubstantial and frivolous.

II.

The Legislative Definition of a "Slum and Blighted Area" Contained in the Illinois Statutes Satisfies Constitutional Requirements of Definiteness.

Appellants' argument that the legislative definition of a "slum and blighted area" contained in the pertinent Illinois statute is unconstitutionally vague is, despite appellants' protests to the contrary, an attempt to induce this Court to reweigh the sufficiency of the evidence upon which the Illinois courts have determined that the area in question is "slum and blighted". Furthermore, appellants did not advance this contention in the trial court, or in their 196 page brief in the Illinois Supreme Court.

They devote pages 11-14 of the Jurisdictional Statement to an argumentative statement of the evidence adduced in the trial court, and to a statement of the holdings of the trial court and the Illinois Supreme Court which is less than objective. They mistakenly assert: (1) that the Illinois statute insufficiently defines the elements of blight and decay; (2) that the number of buildings in the tract which must contain these elements is indefinite; and (3) that the condemning body need not show injury to public health, safety, morals and welfare.

The charge of vagueness is without foundation. The statutory provisions complained of define a "slum and blighted area" as:

> "* * * Any area of not less in the aggregate than two acres located within the territorial limits of a municipality where buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors,

are detrimental to the public safety, health, morals or welfare." (Ill. Rev. Stat. 1961, ch. 67½, Sec. 65(j), 91.103(i)."*

Appellants' advocacy to the contrary notwithstanding, this definition is neither vague nor difficult to understand. It lists a number of indicia of blight and decay and permits clearance only in those situations in which the court before which the condemnation action is pending finds on the evidence adduced that the elements of slum and blight as defined by the legislature are present in the buildings and improvements throughout the area to the degree that the effect is detrimental to the public safety, health, morals or welfare.

The terms in the statute are commonly used in the real estate business. All expert witnesses agreed that "dilapidation" means substantial physical deterioration and that "obsolescence" means conditions which render a building so outmoded as to be inappropriate as a dwelling. The other terms in the statute are words in common use and require no definition.

Appellants complain that under Illinois law condemning bodies are not required to prove existence of detriment to public safety, health, morals or welfare by evidence separate from and independent of the proof of the presence of the elements of blight referred to in the statute. This contention, which apparently denies there is any consequential relation between the existence of a slum and social detriment arising therefrom flies in the face of the uni-

* This definition is either identical or very similar to the definitions of slum and blighted areas contained in urban renewal legislation enacted in the vast majority of the states. (See Appendix J to the petition for certiorari in case No. 861.) The definition is very similar to that contained in the District of Columbia statute sustained by this Court in *Berman* v. *Parker*, 348 U. S. 26, 28 (1954). Insofar as differences exist, the Illinois statute is more definite and explicit.

versal experience of mankind. In the last thirty years the United States Congress and most state legislatures have made findings of the existence of this relationship; and courts have taken judicial notice of the same facts. As this Court stated in *Berman* v. *Parker*, 348 U. S. 26, 32 (1954):

> "Miserable and disreputable housing conditions may do more than spread disease and crime and immorality. They may also suffocate the spirit by reducing the people who live there to the status of cattle. They may indeed make living an almost insufferable burden. They may also be an ugly sore, a blight on the community which robs it of charm, which makes it a place from which men turn. The misery of housing may despoil a community as an open sewer may ruin a river."

Appellants' argument that it is sufficient under Illinois law that it merely appear that as few as two or more buildings suffer from the statutory elements of blight in order to justify clearance of an entire area as a slum and blighted area is an obvious distortion and a strawman. Nothing in the trial court's order or the opinion of the Illinois Supreme Court warrants appellants' biased conclusion that the Illinois statute would be satisfied by evidence that but two or three buildings in an area suffer from slum and blight elements. Appellants argue that Illinois courts should state the minimum percentage of blight required to justify clearance, but the Illinois Supreme Court has properly concluded that the nature of the subject matter precludes an arithmetic standard. The statute lists at least ten separate elements of blight. Each may be present in any given building to a greater or lesser degree. They may exist in various buildings in differing combinations. It would be impossible for even a trained statistician to list all of the possible combinations of these

elements that could be present in a given area and satisfy the statutory requirements.

In any event, the evidence of blight received in evidence in this case demonstrates that one or more of the statutory elements are present in substantial degree in almost all of the buildings in the area. Consequently, appellants' "two or more buildings" argument has no basis in fact insofar as the case at bar is concerned.

Appellee called as witnesses six highly qualified real estate men. Between them they had personally examined 330 of the 332 parcels in the area. They testified that building on 158 of those parcels were in a state of dilapidation, *i.e.*, they contained serious elements of physical deterioration to the degree that it would not be economically feasible for a private owner to repair them to eliminate that deterioration. They testified that buildings on 196 parcels were in a state of obsolescence. Their testimony was that in all, 299 of the 330 parcels suffered from one or more of the statutory elements of slum and blight. It was established that the average age of the buildings in the area is 75 years. It was proved that most of the buildings lack central heating facilities and that a substantial number of the buildings lack sanitary facilities (A. 307-370).

The chief biostatistician of the Chicago Board of Health testified that the rates of syphilis, infant mortality and illegitimacy in this area are from 81% to 174% higher than the rates for the City of Chicago as a whole (A. 295, 383).

Photographs of about ½ of the buildings in the area were introduced in evidence—some by appellants (Rec. 989, 997, 998-1038, A. A. 15, 21, 25-30, 35-53). They are more eloquent than any verbal description of the dilapidation, obsolescence and decay which characterizes this area. The photographs are especially informative because they graph-

ically depict the presence of excessive land use typical of slums, the almost total absence of yards in the area and the consequent lack of light and air for the inhabitants. There is, therefore, no factual basis for the appellants' charges of vagueness.

Appellants' argument is equally unsupportable by legal authority. None of the cases cited by appellants has even the remotest similarity to either the statute or the fact situation involved in this case. All of the cases they rely upon and all of the cases in which this Court has invalidated a statute for vagueness concern penal statutes which prescribed standards of conduct for individuals and which imposed penalties for violations of the statutory provisions.*

The Illinois statute at issue here authorizes a general governmental program of slum clearance and urban renewal. It does not purport to regulate the conduct of individual citizens, nor does it impose any penal sanctions upon citizens. Decisions invalidating statutes regulating and penalizing individual conduct are inapplicable.

Appellants recognize this flaw in their argument. They attempt to analogize their position to that of a citizen affected by a penal statute by arguing that residents of slum areas need to know what they can do to improve their

* Appellees' research has disclosed only one case in which a statute was invalidated on grounds of vagueness and which was not a proceeding to enforce a penalty imposed by the statute. This case, *A. B. Small* v. *American Sugar Refining Co.*, 267 U. S. 233 (1925), involved a wartime penal statute which had already been held unconstitutional in a penal proceeding. Later a party attempted to use the statutory provision as a basis for a defense of illegality in a contract action. The Court merely held that the statute was void and could not be used for this purpose any more than for the imposition of a penalty. The Court has expressly recognized that standards of definiteness are more strict in cases involving penal statutes. *Winters* v. *New York*, 333 U. S. 507, 515 (1948).

areas so as to avoid slum clearance. Obviously, this analogy falls far short of demonstrating that the statute regulates individual conduct or imposes a penalty. In any event, the statute gives ample notice to residents of the factors which make areas "slum and blighted." If residents of slum areas are unable to rehabilitate them through their own efforts, it is not because of any ignorance of the factors which make the area a slum.

III.

The Appellants Have No Standing to Seek Review of Compliance by Appellee With Provisions of the Federal Housing Act.

After a full judicial hearing, the area in question has been adjudicated to be a slum and blighted area. Property owners in the area are receiving just compensation for their property in condemnation proceedings.

Nevertheless, appellants argue that the slum clearance project is being financed in part by a Federal subsidy; that compliance has not been had with certain provisions of the Federal subsidy act; and that this somehow invalidates the slum clearance project so as to undermine the sovereign power of the State of Illinois to eradicate slums by condemnation proceedings and subsequent clearance. This argument is substantially identical to that made in Case No. 861. The answer is that appellants have no standing to raise these objections, and that in any event the objections are without merit.

In order to afford appellants standing to complain of these matters, they must show that the particular action complained of has violated their private legal rights as distinguished from their rights as members of the general public. *Frothingham* v. *Mellon*, 262 U. S. 447 (1923);

Alabama Power Co. v. *Ickes*, 302 U. S. 464 (1938); *Tennessee Electric Power Co.* v. *T. V. A.*, 306 U. S. 118, 137 (1939); *Perkins* v. *Lukens Steel Company*, 310 U. S. 113, 125 (1940); *Kansas City Power & Light Co.* v. *McKay*, 225 F. 2d 924, 931 (D. C. Cir. 1955), cert. den. 350 U. S. 884 (1955); *Gart* v. *Cole*, 263 F. 2d 244, 250 (2d Cir., 1959), cert. denied, 359 U. S. 978 (1959).*

Alleged irregularities in the obtaining or application of some of the federal subsidy funds used by appellee to discharge condemnation judgments and to clear the slum area neither affect nor infringe any of the appellants' private legal rights. In *Allied-City Wide Inc.* v. *Cole*, 230 F. 2d 827, 828 (D. C. Cir., 1956), the Court of Appeals stated, in rejecting contentions of residents of a slum clearance area that they had standing to complain of alleged non-compliance with provisions of the Federal Housing Act:

> "Appellants will be evicted, if at all, by condemnation proceedings lawfully maintained by New York City. One who will be injured by another's lawful use of money has no standing to assert that a third person's action in providing the money will be illegal."

The Illinois Supreme Court properly held, in accordance with well-established principles, that the source of the funds employed by a public body to pay condemnation awards is of no concern to the condemnees. (Supplement to Jurisdictional Statement 5a.) *City of Chicago* v. *Sanitary District*, 272 Ill. 37, 41-42, 111 N. E. 491, 493 (1916); *Summerfield* v. *City of Chicago*, 197 Ill. 270, 283, 64 N. E. 490, 494 (1902); *C. B. & Q. R. R. Co.* v. *Naperville*, 169 Ill. 25, 48 N. E. 335 (1897).

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* Appellants' suggestion (Jurisdictional Statement, pp. 32-33) that it is somehow invalid under the Supremacy clause for Illinois courts to adopt, in condemnation proceedings, the criteria of standing developed by this court is frivolous.

Appellants attempt to avoid the effect of these decisions by arguing that the Federal subsidy statute was enacted for their personal protection; that the statute created private legal rights in them as owners of property in slum clearance areas to require compliance with all provisions of the subsidy statute; and that the statute made them third party beneficiaries of subsidy contracts executed by the Federal and local agencies. There is no indication of any of this in the language of the Federal statute or its legislative history. On the contrary, it is clear that the provisions in the statute for the guidance of the Federal administrator in determining whether in the exercise of his discretion to grant a subsidy, were intended to prevent waste of public funds and protect the public generally. The public generally, including local residents as part of that group, are benefited by the clearance of slums.

Attempts by property owners or others to complain as private litigants of alleged non-compliance with the Federal Housing Act have been rejected repeatedly by the courts on the ground of lack of standing to sue. *Allied-City Wide, Inc.* v. *Cole*, 230 F. 2d 827, 828 (D. C. Cir., 1956); *Pittsburgh Hotels Assn., Inc.* v. *Urban Redevelopment Authority of Pittsburgh*, 202 F. Supp. 486, 492-493 (W. D. Pa. 1962), affirmed 309 F. 2d 186 (3rd Cir., 1963), cert. denied; sub. nom. *Hilton Hotels Corporation* v. *Urban Redevelopment Authority*, 372 U. S. 916 (1963); *Taft Hotels* v. *Housing & Home Finance Agency*, 162 F. Supp. 538 (D. Conn. 1958), affirmed 262 F. 2d 307 (2nd Cir., 1958), cert. denied 359 U. S. 967. (1959); *Hunter* v. *City of New York*, 121 N. Y. S. 2d 841, 846 (Sup. Ct. 1953); *Kaskel* v. *Impelletieri*, 121 N. Y. S. 2d 848 (Sup. Ct., 1953). The same result has been reached in similar cases involving other federal statutes. *Clement Martin* v. *Dick Corporation*, 97 F. Supp. 961, 964 (W. D. Pa. 1951); *Hoffman* v. *Stevens*, 177 F. Supp. 898, 903 (M. D. Pa. 1959); *Sapp* v. *Hardy*, 204 F. Supp. 602

(D. Del. 1962); *Choy* v. *Farragut Gardens*, 131 F. Supp. 609 (S. D. N. Y. 1955).

If appellants' contentions were accepted, the inevitable result would be the injection of a host of cumbersome, collateral issues into every slum clearance condemnation action which is being financed in part by a Federal subsidy. Most of these issues involve general policy questions and sociological determinations inappropriate for judicial determination.

A typical example is the "relocation" issue which appellants have emphasized in their arguments in this appeal* and on No. 861. Appellants concede that appellee has prepared extensive written plans for the relocation of residents of these areas and that the administrator of the HHFA has certified that appellee has complied with the provisions of the Federal Housing Act concerning relocation. But appellants seek to go behind this determination. They offer to prove that the *operation* of the admittedly proper written relocation plan is *in practice* so inadequate that there is an absence of a "feasible plan for relocation" under the Federal Housing Act. This theory, if accepted, would make relevant the propriety of every individual relocation in any slum clearance project undertaken in Chicago since 1947. Occupants of more than 23,000 separate living units have been relocated during this period.

In considering the propriety of each individual relocation, evidence could be adduced concerning the condition of the old neighborhood and residences, distance from jobs, rent level, available public utilities and public and commercial facilities, and a comparison of these facts with the same matters in the new residences—or in any one or more residences to which the family did not move but

* None of the appellants contend that they are personally adversely affected in this regard or that they face any adverse relocation situation.

to which they were referred by appellee's Relocation Department.

Appellants cannot brush off these problems as a "parade of horribles" as they have sought to do in the lower courts. Appellants have attached affidavits to their complaint in No. 861* which purport to summarize a part of the evidence appellants would seek to adduce to prove the alleged inadequacy of relocation plans. These affidavits consist of a table of statistics prepared by counsel for appellants and of a number of case histories. The case histories concern relocations in 1959-1962 in an area in the City of Chicago which is more than seven miles from the area involved in this case. If this evidence were introduced, appellee obviously would be entitled to inquire into the data underlying the statistics and to introduce rebuttal evidence concerning other relocations.

Similarly, appellants claim the right to adduce evidence concerning alleged inadequacies in appellee's "General Plan" for urban renewal, not only for the areas involved in these sections, but for the entire City of Chicago. They urge this court to invest them with the right to investigate the entire situation of housing for Mexicans and Negroes in the City of Chicago and the question of whether appellee has "explored . . . every possibility" of developing a plan which would permit a "maximum number" of "sound structures" to remain in the area.

Clearly, the Solicitor General was correct when he stated in his brief in opposition to the petition for certiorari in No. 861 that these matters do not lend themselves to judicial inquiry. It would require evidence of Congressional intent far stronger than the silence upon which appellants rely to infer that Congress intended to invest each prop-

* These affidavits are incorporated by reference in the traverses filed by appellants in the trial court in this action as Exhibits F-1 and F-2.

erty owner and resident of a slum clearance area with a private legal right to review these questions. Armed with standing to explore these collateral subjects it would not be difficult for hostile property owners and residents substantially to hinder and in some cases to prevent urban renewal.

Insofar as a court might reasonably inquire, the undisputed facts demonstrate that no violations of the Federal Housing Act have occurred. Appellants concede there was a hearing before a Committee of the City Council in April, 1961. The Federal Administrator of the HHFA certified that the Commission had complied with the "general plan" and "relocation plan" provisions of the Federal Housing Act. This certification came after appellants and others had filed a voluminous brief with the Administrator.

The record in this case contains or describes lengthy public documents designated by the appellee as the general plan for the City of Chicago and as plans for relocation of residents displaced by slum clearance. (VI 1053, A. 456, 457, 451, 474.) Appellants do not contend that these documents are fraudulent in any respect. These facts are not only of record but are contained in a stipulation signed by appellants' counsel (A. 451-477). We are amazed that counsel impugn their authenticity. (Reply Brief of Petitioners in No. 861, p. 12.)

CONCLUSION.

Appellants' contentions are but restatements of arguments made and uniformly rejected in prior cases. The Jurisdictional Statement sets forth no substantial Federal question and the appeal should be dismissed.

Respectfully submitted,

JOHN C. MELANIPHY,
Corporation Counsel of the City of Chicago,
THOMAS A. FORAN,
Special Assistant Corporation Counsel,
MILTON P. WEBSTER, JR.,
Assistant Corporation Counsel,
Attorneys for Appellee.

ALBERT E. JENNER, JR.,
THOMAS A. FORAN,
KEITH F. BODE,
Of Counsel.